

53B-21-102 Bonds do not create state indebtedness -- Special obligations -- Discharge of bonded indebtedness -- Agreements and covenants by the board regarding bonds -- Enforcement by court action.

- (1)
- (a) The bonds issued under this chapter are not an indebtedness of the state, of the institution for which they are issued, or of the board.
 - (b) They are special obligations payable solely from the revenues derived from the operation of the building and student building fees, land grant interest, net profits from proprietary activities, and any other revenues pledged other than appropriations by the Legislature as provided in Sections 53B-21-101 and 53B-21-111.
 - (c)
 - (i) Notwithstanding any other provision of law, the chair of the board shall certify annually by December 1 any amount required to:
 - (A) restore any debt service reserve funds established by the board for bonds issued under this chapter to the amount required by the related authorizing proceedings; or
 - (B) meet projected shortfalls of payment of principal or interest or both for the following year on any bonds issued under this chapter.
 - (ii) The governor may request from the Legislature an appropriation of the amount certified under Subsection (1)(c)(i) to restore the debt service reserve funds to their required amounts or to meet any projected principal or interest payment deficiency.
 - (d)
 - (i) The state may not alter, impair, or limit the rights of bondholders or persons contracting with the board until the bonds, including interest and other contractual obligations, are fully met and discharged.
 - (ii) Nothing in this chapter precludes an alteration, impairment, or limitation if provision is made by law for the protection of bondholders or persons entering into contracts with the board.
- (2) The board shall pledge all or any part of the revenues to the payment of principal of and interest on the bonds.
- (3) In order to secure the prompt payment of principal and interest and the proper application of the revenues pledged, the board may, by appropriate provisions in the resolution authorizing the bonds:
- (a) covenant as to the use and disposition of the proceeds of the sale of the bonds;
 - (b) covenant as to the operation of the building and the collection and disposition of the revenues derived from the operation;
 - (c) collect student building fees from all students, and pledge the fees to the payment of building bonds;
 - (d) covenant as to the rights, liabilities, powers, and duties arising from the breach of any covenant or agreement into which it may enter in authorizing and issuing the bonds;
 - (e) covenant and agree to carry insurance on the building, and its use and occupancy, and provide that the cost of any insurance is part of the expense of operating the building;
 - (f) vest in a trustee:
 - (i) the right to receive all or any part of the income and revenues pledged and assigned to or for the benefit of the holder or holders of the bonds issued under this chapter, and to hold, apply, and dispose of the income and revenue; and
 - (ii) the right to:
 - (A) enforce any covenant made to secure the bonds;
 - (B) execute and deliver a trust agreement which sets forth the powers and duties and the remedies available to the trustee and limits the trustee's liabilities; and

- (C) prescribe the terms and conditions upon which the trustee or the holders of the bonds in any specified amount or percentage may exercise such rights and enforce any or all covenants and resort to any appropriate remedies;
- (g)
 - (i) fix rents, charges, and fees, including student building fees, to be imposed in connection with and for the use of the building and its facilities, which are:
 - (A) income and revenues derived from the operation of the building; and
 - (B) expressly required to be fully sufficient either by themselves or with land grant interest and net profits from proprietary activities, or from sources other than by appropriations by the Legislature to such issuing institutions to assure the prompt payment of principal of and interest on the bonds as each becomes due; and
 - (ii) make and enforce rules with reference to the use of the building and with reference to requiring any class or classes of students to use the building as desirable for the welfare of the institution and its students or for the accomplishment of the purposes of this chapter;
- (h) covenant to maintain a maximum percentage of occupancy of the building;
- (i) covenant against the issuance of any other obligations payable from the revenues to be derived from the building, unless subordinated;
- (j) make provision for refunding;
- (k) covenant as to the use and disposition of sources of revenue other than those derived from appropriations by the Legislature, and pledge those sources of revenues to the payment of bonds issued under this chapter;
- (l) make other covenants considered necessary or advisable to effect the purposes of this chapter; and
- (m) delegate to the chair, vice-chair, or chair of the Budget and Finance Subcommittee the authority:
 - (i) to approve any changes with respect to interest rate, price, amount, redemption features, and other terms of the bonds as are within reasonable parameters set forth in the resolution; and
 - (ii) to approve and execute all documents relating to the issuance of the bonds.
- (4)
 - (a) The agreements and covenants entered into by the board under this section are binding in all respects upon the board and its officials, agents, and employees, and upon its successors.
 - (b) They are enforceable by appropriate action or suit at law or in equity brought by any holder or holders of bonds issued under this chapter.

Amended by Chapter 324, 2010 General Session